

May 31, 2022

The Honorable Kimberly Middendorf
Office of Administrative Hearings 600 North Robert Street
P.O. Box 64620
Saint Paul, MN 55164-0620

RE: EERA Review and Comments – Proposed FOF
Sherco Solar Project
OAH Docket No. 21-2500-37959
PUC Docket Nos. E002/TL-21-189, E002/TL-21-190, E002/GS-21-191

Dear Judge Middendorf,

Department of Commerce, Energy Environmental Review and Analysis (EERA) staff submits these reply comments on two of Xcel Energy's recent filings: the May 16, 2022, *Response to Comments Received at the Public Hearings*¹ and to the Applicant's *Proposed Findings of Fact*² for the Sherco Solar Project.

Xcel Energy's Response to Comments

- A. Vegetation Management Plan.** The Applicant has stated that the Sherco Solar Project will strive to meet the highest standard, the "gold standard," established by the Minnesota Board of Water and Soil Resources (BWSR) Habitat Friendly Solar Site Assessment Form scorecard.³ This desire is also restated in Xcel Energy's public hearing comment response filing.⁴

While this is a noble goal, especially on a utility scale solar project of this size, it should be noted that this exceeds the requirements in Section 4.3.9-*Vegetation Management Plan* of the sample Site Permit. The sample permit states:

The Permittee shall develop a vegetation management plan using best management practices established by the DNR and BWSR. The vegetation management plan shall be prepared in coordination with the Department of Commerce, DNR, and BWSR. The vegetation management plan and documentation of the coordination efforts between the permittee and the coordinating agencies shall be filed at least 14 days prior to the preconstruction meeting. The Permittee shall provide all affected landowners with copies of the plan.

¹ Xcel Energy *Response to Comments Received at the Public Hearings*, May 16, 2022. eDocket No. 20225-18541-03.

² Xcel Energy *Proposed Findings of Fact, Conclusion of Law, and Recommendations*, May 16, 2022. eDocket No. 20225-185843-02.

³ Xcel Energy Application for a Site and Two Route Permits for the Sherco Solar Project, p. 30. eDocket No. 20214-173139-02.

⁴ Xcel Energy *Response to Comments Received at the Public Hearings*, May 16, 2022, p. 5. eDocket No. 20225-18541-03.

The vegetation management plan must include the following:

- *Management objectives addressing short term (Year 0-3, seeding and establishment) and long term (Year 4 through the life of the permit) goals.*
- *A description of planned restoration and vegetation management activities, including how the site will be prepared, timing of activities, how seeding will occur (broadcast, drilling, etc.), and the types of seed mixes to be used.*
- *A description of how the site will be monitored and evaluated to meet management goals.*
- *A description of the management tools used to maintain vegetation (e.g., mowing, spot spraying, hand removal, fire, grazing, etc.), including the timing and frequency of maintenance activities.*
- *Identification of the third-party (e.g., consultant, contractor, site manager, etc.) responsible for restoration, monitoring, and long-term vegetation management of the site.*
- *Identification of on-site noxious weeds and invasive species (native and non-native) and the monitoring and management practices to be utilized.*
- *A site plan showing how the site will be revegetated and that identifies the corresponding seed mixes. Best management practices should be followed concerning seed mixes, seeding rates, and cover crops.*

While EERA appreciates the Applicant's goal and given the challenges between balancing the requirements of reaching the "gold standard" in restoration with the need to maximize solar energy production, EERA is not recommending any changes in the sample site permit language relative to this issue.

- B. Special Permit Conditions.** Having reviewed Agencies' comments received during the public hearing comment period, EERA supports the addition of the following Special Permit Conditions to the sample site permit:

Snowmobile Trail

The Permittee shall coordinate with local snowmobile trail associations to reroute Sherburne County Trail #209247. At least 14 days prior to the preconstruction meeting, the Permittee shall provide the Commission with documentation identifying the location of the rerouted snowmobile trail.

Loggerhead Shrike

The Permittee shall avoid the removal of trees and shrubs for the facility between April 1st and July 31st, unless coordinated with the DNR.

Blanding's Turtle

The Permittee shall initiate the following measures during construction to avoid and or mitigate for impacts to the Blanding's turtle during construction:

- *Avoid wetland impacts during hibernation season, between October 15th and April 15th, unless the area is unsuitable for hibernation.*
- *Provide the DNR developed Blanding's turtle flyer to all contractors working in the area.*

- *Monitor for turtles during construction and report any sightings to the DNR Nongame Specialist.*
- *If turtles are in imminent danger, they must be moved by hand out of harm's way, otherwise they are to be left undisturbed.*

Perimeter Fencing

The Permittee shall coordinate with the DNR to further refine the appropriate fence design. The results of the coordination shall be submitted to the Commission with the site plan pursuant to Section 8.3.

Wildlife-Friendly Erosion Control

The Permittee shall use only "bio-netting" or "natural netting" types of erosion control materials and mulch products without synthetic (plastic) fiber additives.

Facility Lighting

Permittee must use shielded and downward facing lighting and LED lighting that minimizes blue hue at the project substations. Downward facing lighting must be clearly visible on the site plan submitted for the project.

Dust Control

Permittee shall utilize non-chloride products for onsite dust control during construction.

- C. Decommissioning Plan.** EERA filed comments on the Applicant's *Decommissioning Plan* on May 5, 2022,⁵ in which among other comments recommends a change in Section 9.1 of the sample site permit. This change requires that the Permittee submit its Decommissioning Plan 14 days prior to the pre-construction meeting, rather than the pre-operation meeting. Xcel Energy's response (concurrence with) this change is unclear from their filing; while the Applicant acknowledges EERA's recommendation on the timing of this deliverable, they do not state their concurrence.

Xcel Energy's Proposed Findings of Fact, Conclusions of Law, and Recommendations

EERA staff has no substantial changes to the Applicant's proposed Findings of Fact, Conclusions of Law, and Recommendations

EERA staff appreciates the opportunity to submit these reply comments.

Sincerely,

William Cole Storm
Environmental Review Manager

⁵ EERA Comments on the Sherco Solar Project Decommissioning Plan, May 5, 2022. eDocket No. 20225-185560-01.